

Message Text

PAGE 01 QUITO 05170 062332Z

63

ACTION ARA-20

INFO OCT-01 ISO-00 AEC-11 AID-20 CEA-02 CIAE-00 CIEP-03

COME-00 DODE-00 EB-11 FPC-01 H-03 INR-11 INT-08 L-03

NSAE-00 NSC-07 OMB-01 PM-07 RSC-01 SAM-01 SCI-06

SP-03 SS-20 STR-08 TRSE-00 FRB-03 FEA-02 PA-04 PRS-01

USIA-15 DRC-01 /174 W

----- 116246

P R 062245Z AUG 74

FM AMEMBASSY QUITO

TO SECSTATE WASHDC PRIORITY 2010

INFO AMCONSUL GUAYAQUIL

C O N F I D E N T I A L QUITO 5170

E.O. 11652: GDS

TAGS: ENRG, EC

SUBJ: PETROLEUM: ADA

REF: A. QUITO 5104; B. QUITO 5036

1. SUMMARY: ADA MANAGER BASTIDAS WAS CALLED AUGUST 5 TO FIRST MEETING WITH CABINET LEVEL COMMISSION ESTABLISHED TO STUDY QUESTION OF COMPENSATION TO ADA FOR PRIOR INVESTMENT IN THE GULF OF GUAYAQUIL. BASTIDAS HAD OBTAINED CONFIDENTIAL ACCESS TO LETTER CONTAINING COMMISSION GUIDELINES WHICH INSTRUCT IT ON PERMISSIBLE ITEMS FOR COMPENSATION IF IT SHOULD DECIDE THAT ECUADOR'S LARGER INTERESTS DICTATE SOME COMPENSATION. (THRUST OF LETTER, IN OUR OPINION, IS THAT COMMISSION SHOULD SO FIND.) AT COMMISSION MEETING GOE MEMBERS REQUESTED VARIOUS INFORMATION FROM ADA AND REVEALED CERTAIN OF COMMISSION GUIDELINES. SINCE GOE'S APPROACH FALLS SHORT OF WHAT ADA HAD TOLD CEPE IT NEEDED TO PROTECT IS RIGHTS IN THE NEW ROUND OF BIDDING, BASTIDAS HAS LOST FAITH IN GOE'S GOODWILL AND WILL RECOMMEND TO PRINCIPALS THAT ADA NOT ENTER BIDDING AND THREATEN TO DETER ANY OTHER BIDDERS. BEFORE EITHER PARTY GOES BEYOND A POINT OF NO RETURN, AMBASSADOR
CONFIDENTIAL

PAGE 02 QUITO 05170 062332Z

PROPOSES TO SEEK FURTHER INFORMATION ON THE CASE FROM ACTING FONMIN. DEPARTMENT IS REQUESTED TO CAUTION ADA PRINCIPALS AGAINST TAKING ACTIONS COUNTER TO THEIR INTERESTS VIS-A-VIS GOE.
END SUMMARY.

2. ADA MANAGER BASTIDAS CALLED ON AMBASSADOR AUGUST 5 TO EXPLAIN THAT THE HAD BEEN CALLED TO MEETING WITH CABINET LEVEL COMMISSION HANDLING ADA COMPENSATION QUESTION. HE WAS IN POSSESSION OF BOOT-LEG COPY OF A JULY 31 LETTER OUTLINING CABINET'S GUIDELINES FOR THE HIGH LEVEL COMMISSION. HE SHARED LETTER WITH AMBASSADOR ON CONFIDENTIAL BASIS. IT SEEMS CLEAR RPT CLEAR TO EMBASSY THAT THRUST OF TORTURED LEGAL LANGUAGE OF THE LETTER IS THAT THE COMMISSION SHOULD FIND A COMPENSATION FORMULA WITHIN RESTRICTIVE BOUNDS SET BY THE HYDROCARBONS LAW AND DECREE 1379 THAT ANNULLED ADA'S CONTRACT IN 1972. ADA MANAGER'S INTERPRETATION IS THAT THE GUIDELINES ARE EXTREMELY DANGEROUS TO ADA'S LEGAL POSITION IN THAT THEY ACKNOWLEDGE NO INHERENT LEGAL RIGHT TO COMPENSATION AND DEFINE AS SUBJECT FOR POSSIBLE COMPENSATION ONLY THOSE INSTALLATIONS AND OTHER WORKS OF ADA WHICH COULD BE OF FUTURE USE. THEY EXCLUDE CERTAIN CATEGORIES OF ADA EXPENDITURE. MOREOVER, BASTIDAS ATTRIBUTED PERNICIOUS MOTIVATIONS TO THE GOE, SUSPECTING THAT THE SOURCES OF THE GOE APPROACH ARE ENEMIES OF ADA AND THAT AUGUST 26 PRE-QUALIFICATION DEADLINE FOR BIDDING WILL COME AND GO WITH ADA'S RIGHTS UNASSERTED AND UNACKNOWLEDGED. HE AGREED TO INFORM EMBASSY OF RESULTS OF MEETING.

3. FOLLOWING MEETING BASTIDAS REPORTED TO EMBOFF THAT MEETING FOLLOWED COURSE OF HIS LOW EXPECTATIONS. JARR'IN CHAIRED AND MADE GENERAL OPENING STATEMENT. OTHERS PRESENT INCLUDED MINGOV POVEDA, ACTING FONMIN VALDEZ, GENERAL IZURIETA, FINMIN MONCAYO, AND ATTORNEY GENERAL KAROLYS. KAROLYS DOMAINATED THE MEETING WHICH WAS DESCRIBED BY THE PARTICIPANTS AS A QUOTE CONVERSATION UNQUOTE AND IN WHICH KAROLYS REQUESTED FURTHER INFORMATION FROM ADA. HE WANTED DETAILED JURIDICAL DEMONSTRATION CONCERNING THE EIGHT ORIGINAL CONSORTIUM OWNERS, THEIR RELATIONSHIPS WITH EACH OTHER AND WITH THE ECUADOREAN SUBSIDIARIES FORMING THE CONSORTIUM. HE WANTED THE DETAILS OF THE INVESTMENT OF EACH OF THE PARTIES OVER THE LIFE OF THE INVESTMENT AND HE EXPLAINED THAT AN INDEPENDENT AUDIT OF THE ENTIRE INVESTMENT WILL BE REQUIRED.

4. ALTHOUGH THE SUBJECT OF THE MEETING THUS REVOLVED AROUND IN-CONFIDENTIAL

PAGE 03 QUITO 05170 062332Z

FORMATION, MECHANICS, AND LIMITATIONS OF A COMPENSATORY SCHEME, THE GOE PARTICIPANTS DID NOT EXPLICITLY COMMIT THEMSELVES TO EVENTUAL COMPENSATION AS IN EMBASSY'S VIEW INDEED THEY COULD NOT HAVE BEEN EXPECTED TO DO IN LIGHT THEIR INSTRUCTIONS IN LETTER. THE EARLIER AGREEMENT BETWEEN ADA AND MINISTRY OF NATURAL RESOURCES OFFICIALS TO RECOGNIZE EXPLICITLY IN THE BIDDING ADA'S RIGHT TO RECOVERY OF ITS FULL PRIOR INVESTMENT AND THE OBLIGATION OF ANY OTHER WINNING BIDDER TO PAY SUCH CLAIMED SUM DIRECTLY TO ADA HAD OBVIOUSLY GONE BY THE BOARD. WHILE THE GOE MEMBERS TALKED AS IF THEY EXPECTED ADA TO SEEK PRE-QUALIFICATION FOR BIDDING, BASTIDAS' FEELING IS THAT ADA CANNOT BID IN THE PRESENT SITUATION. BASTIDAS SAID HE TOLD THE COMMISSION HE COULD NOT RESPOND OFFICIALLY TO THE GOE WITHOUT CONSULTING WITH

HIS PRINCIPALS IN HOUSTON. HOWEVER, HIS ATTORNEY TOLD THEM THAT THE CONSEQUENCES OF THE GOE APPROACH WOULD BE THAT OTHER COMPANIES WOULD AVOID BIDDING ON DISPUTED ACREAGE AND THAT AMERICAN COMPANIES CONTROLLING 200 OF THE 216 OFFSHORE DRILLING RIGS WORLD-WIDE WOULD NOT INVOLVE THEMSELVES IN DEVELOPING DISPUTED AREAS. AT CONCLUSION OF THE MEETING, BASTIDAS ASKED TO HAVE THE GOE POINTS IN WRITING AND JARRIN SAID THAT HE WOULD ATTEND TO THAT AFTER REGULAR AUGUST 6 CABINET MEETING. BASTIDAS' READING OF GOE MOTIVES IS NOW SO BLEAK THAT HE DOES NOT EXPECT TO RECEIVE WRITTEN COMMUNICATION ON THE MEETING.

5. BASTIDAS AND LAWYER JIMENEZ WILL DEPART FOR HOUSTON AUGST 6 AND ADA PRINCIPALS WILL PROBABLY CONTACT DEPARTMENT AND POSSIBLY ECUADOREAN AMBASSADOR QUEVEDO LATER IN WEEK.

6. COMMENT: AMONG THE POINTS TO NOTE ARE:

A) GOE POLICY STILL APPEARS TO BE THAT OF FINDING A WAY TO COMPENSATE ADA ALTHOUGH NOT IN A MANNER OF ADA'S LIKING, I.E. WITHOUT AN IRONCLAD, WRITTEN, AUTOMATIC COMMITMENT TO DO SO ON ADA'S TERMS;

B) LOCAL ADA REPS HAVE ABANDONED FAITH IN THE GOE'S GOODWILL BECAUSE OF THE CURRENT ABSENCE OF THE MUTUALITY THAT HAS CHARACTERIZED THEIR NEGOTIATIONS SINCE THE NOVEMBER 1972 ANNULLMENT;

C) NEITHER SIDE HAS YET STAKED OUT A PUBLIC POSITION THAT COULD LOCK THE PARTIES IN A CONFRONTATION UNPRODUCTIVE TO ALL.
CONFIDENTIAL

PAGE 04 QUITO 05170 062332Z

7. EMBASSY DOES NOT SEE EITHER JUSTIFICATION FOR OR VALUE IN A FORMAL PROTEST AT THIS TIME. AMBASSADOR HAS ALREADY CONVEYED WORD TO GOE AUGUST 1 THAT EMBASSY AND DEPARTMENT ARE FOLLOWING CASE WITH GREAT INTEREST. WE NOW THINK IT APPROPRIATE TO SEEK INFORMATION ON THE STATUS OF THE CASE THROUGH PROMPT APPROACH BY AMBASSADOR TO ACTING FONMIN VALDEZ WHO ATTENDED AUGUST 5 MEETING. WE WOULD HOPE FOR AN INDICATION OF HOW MUCH COMPENSATION THE GOE WOULD SUPPORT, HOW SOON THE COMMISSION CAN COMPLETE ITS REPORT, AND HOW THE GOE FEELS NOW ABOUT AN ADA BID ON ACREAGE IN THE GULF. WE CAN THEN MAKE A FURTHER EVALUATION OF GOE INTENTIONS. ESTABLISHMENT OF HIGH LEVEL COMMISSION OF SEVERAL CABINET OFFICERS SEEMS TO US AT THIS JUNCTURE TO BE A THINLY-CAMOUFLAGED ADMISSION THAT DESPITE DOMESTIC POLITICAL SENSITIVITY OF THE WHOLE ADA CASE, ADA CONSORTIUM IS FOR INTERNATION REASONS ENTITLED TO SOME MEASURE OF COMPENSATION.

8. EMBASSY WILL FORWARD BY POUCH TO ARA/EP COPIES OF LETTER AND ADA SUMMARY OF EXPENDITURES THROUGH 5/31/74 TOTALLING \$26,358,559.

9. ACTION REQUESTED: MEANWHILE REQUEST DEPARTMENT DISCOURAGE ADA PRINCIPALS FROM TAKING PUBLIC ACTIONS THAT WOULD WRECK

POSSIBILITY OF ACHIEVING THEIR OBJECTIVES WHICH ARE, WE TAKE IT,
FAIR COMPENSATION FOR PAST INVESTMENT OR OPPORTUNITY TO
RESUME EXPLORATION. DEPARTMENT MIGHT ALSO CONSIDER EXPLORING WITH
ADA PRINCIPALS QUESTION OF WHAT FAIR COMPENSATION MIGHT CONSIST,
CONSIDERING EXPERINCE WITH ANALOGOUS CASES ELSEWHERE.
BREWSTER

CONFIDENTIAL

<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 27 JUL 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PETROLEUM INDUSTRY, COMPENSATION, CONTRACTS, COMMITTEES
Control Number: n/a
Copy: SINGLE
Draft Date: 06 AUG 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: cunninfx
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974QUITO05170
Document Source: ADS
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Film Number: D740214-1085
From: QUITO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740889/abbrzbja.tel
Line Count: 171
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ACTION ARA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: A. QUITO 5104; B. QUITO 5036
Review Action: RELEASED, APPROVED
Review Authority: cunninfx
Review Comment: n/a
Review Content Flags:
Review Date: 13 SEP 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <13 SEP 2002 by cunninfx>; APPROVED <20 FEB 2003 by cunninfx>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PETROLEUM: ADA
TAGS: ENRG, EC, ADA
To: STATE INFO GUAYAQUIL
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005